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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing )  
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Filing Date: August 24, 2022 )  
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Case No.: PSH-22-0137

Issued: December 28, 2022

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**Administrative Judge Decision**

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Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should be granted.

**I. BACKGROUND**

On July 1, 2021, the Individual submitted a Questionnaire for National Security Positions (QNSP) to a local security office (LSO) in which he disclosed that he: was previously addicted to methamphetamine ("meth"); had used meth approximately 1500 times between January 2011 and May 2020; had used cocaine or crack cocaine approximately 20 times between 2011 and 2017; was previously addicted to heroin; had used heroin approximately 300 times between January 2011 and September 2015; smoked marijuana approximately 400 times between January 2011 and June 2020; used psychedelic mushrooms approximately 15 times between 2011 and June 2020; had used N-dimethyltryptamine (DMT) twice between 2011 and 2020; abused Percocet on two or three occasions in 2015; and had abused Xanax several times between 2015-2018. Exhibit (Ex.) 6 at 1, 52-58.

An Office of Personnel Management (OPM) investigator conducted an Enhanced Subject Interview (ESI) of the Individual on July 16, 2021, in which the Individual was questioned about his drug use, drug related arrests, and illegal purchase of drugs or controlled substances. Ex. 7 at

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

96–102. The Individual informed the OPM investigator that he: was on probation from October 2014 to June 2017; had tested positive for meth, marijuana and heroin on multiple occasions while on probation from 2014 to 2017; had purchased meth from January 2011 to May 2020; had sold meth to support his meth habit; had used his father’s money to buy heroin; had purchased marijuana from street dealers or his sister; had purchased and grown psychedelic mushrooms; was arrested and charged with misdemeanor possession of a controlled substance in July 2015; was arrested in September 2015 for a juvenile probation violation after attempting to submit someone else’s urine sample during a drug test; had been required to complete an inpatient treatment program; and had been charged with felony possession of a controlled substance and possession of drug paraphernalia in August 2016. Ex. 7 at 97-101.

Because of the Individual’s extensive illegal drug use and associated criminal activity, the LSO requested that the Individual undergo an evaluation by a DOE-contracted Psychologist (Psychologist), who conducted a clinical interview (CI) of the Individual on April 4, 2022. Ex. 4 at 2. During the CI, the Individual reported that he began using marijuana, meth, and heroin daily at approximately age 13. Ex. 4 at 2. He stated that his substance use problems were supported by his father and two sisters who also engaged in substance abuse. Ex. 4 at 2. The Individual reported that he used meth until May 2020, and he used marijuana until June 2020. Ex. 4 at 2. The Individual reported that his last illegal drug use occurred in August 2021 when he used DMT twice during a two-week period. Ex. 4 at 5. The Individual also informed the Psychologist that he had received inpatient treatment for stimulant dependence from June 2016 to August 2016, and outpatient treatment for that disorder from July 2017 to August 2017. Ex. 4 at 4. The Individual reported that he had received intensive outpatient therapy from a counselor and was being treated by a Psychiatrist (the Psychiatrist) since March 13, 2013, for Anxiety, Attention-Deficit Hyperactivity Disorder (ADHD) and substance abuse.<sup>2</sup> Ex. 4 at 2, 4.

In addition to conducting the CI of the Individual, the Psychologist administered a urine drug screen and had him undergo a Phosphatidylethanol (PEth) laboratory test to detect alcohol consumption during the previous several weeks. Ex. 4 at 2. The PEth test was negative. Ex. 4 at 5. The Individual’s drug screen was positive for amphetamine but negative for all other substances. Ex. 4 at 5. A consulting DOE psychiatrist who evaluated the Individual’s drug screen opined that the Individual’s positive test for amphetamines resulted from a stimulant, Vyvanse, that had been prescribed to him for his ADHD. Ex. 4 at 5, 29. He further opined that the negative test results provided evidence that the Individual had not used meth, barbiturates, cocaine, marijuana, meperidine, methadone, opiates, oxycodone, phencyclidine or propoxyphene in the days before the test was done, or in the case of marijuana, possibly weeks before the test was done. Ex. 4 at 5, 29.

The Psychologist issued a report of his findings (the Report) on April 11, 2022, in which he opined that the Individual met the criteria set forth in the Diagnostic and Statistical Manual of Mental

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<sup>2</sup> The Psychiatrist prescribed Naltrexone, Clonazepam, and Vyvanse to treat the Individual’s anxiety, impulsiveness, and ADHD. Ex. 4 at 4.

Disorders – Fifth Edition (DSM-5) for Stimulant Use Disorder (SUD) in early remission. Ex. 4 at 9.<sup>3</sup> He further opined that:

[The Individual's] use of DMT, however, just seven months ago does not provide enough time to determine if he has actually reformed. His casual decision to use DMT out of "curiosity" and not for "self-medication, raises the question of the strength of his decision to not use illicit drugs. His recent use and his admitted motivation results in the diagnosis of Stimulant Use Disorder remaining in effect.

Ex. 4 at 9.

Noting that the Individual has been in counseling, inpatient treatment, and had received medication nearly constantly over the last nine years, the Psychologist concluded that he "did not believe that additional treatment other than his medication and continued counseling...would be effective." Ex. 4 at 10. Accordingly, the Psychologist recommended that the Individual continue with his medications and therapy for as long as his therapists believe he will benefit, and that the Individual undergo urine drug screens at least once every four weeks for six more months. Ex. 4 at 10.

After receiving the Report, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from five witnesses: the Individual, his coworker (Coworker), his prior manager (Manager), the Psychiatrist, and the Psychologist. *See* Transcript of Hearing, Case No. PSH-22-0137 (hereinafter cited as "Tr."). The LSO submitted seven exhibits, marked as Exhibits 1 through 7. The Individual submitted six exhibits, marked as Exhibits A through F.

The Individual's Exhibit A is an undated letter from the director of the substance abuse recovery center (Director) where the Individual completed treatment. Ex. A. The Director stated that the recovery program consisted of intensive group therapy, individual therapy, case management and life skills. Ex. A. He confirmed that the Individual "completed our program in its entirety....[and] was able to graduate, get a job and maintain his sobriety" during and after completing the program. Ex. A. The Director asserted that the Individual is "one of the few [people he] know[s] will own his mistakes, learn and grow from them." Ex. A.

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<sup>3</sup> The Psychologist also diagnosed the Individual with Generalized Anxiety Disorder (GAD) and opined that the Individual engaged in substance abuse to "attenuate his anxiety." Ex. 4 at 8. Additionally, The Psychologist diagnosed the Individual with Gambling Disorder (GD), Opioid Use Disorder (OUD), and Cannabis Use Disorder (CUD), each of which he found to be in sustained remission. Ex. 4 at 8-9. The Psychologist opined that "it is important that [the Individual's] anxiety continues to be medically treated as I concur with previous clinicians that it motivates his substance use," and that the Individual's GAD and GD will continue to require therapeutic monitoring. Ex. 4 at 10. The Summary of Security Concerns (SSC) did not raise any security concerns specifically based upon the Individual's OUD, CUD, GAD, or GD diagnoses, although the record indicates that these disorders contributed to the behaviors cited in the SSC which raised security concerns under Guideline H.

Exhibit B is a character reference letter from a friend who stated she has known the Individual for eight years and met him through her son. Ex. B. She stated that the Individual has been a good friend to her and her family and opined that he is reliable. Ex. B.

Exhibit C is a character reference letter from a close friend and former colleague who stated that he has known the Individual since he was a child. Ex. C. The former colleague asserted that through his observations of the Individual from adolescence through adulthood, he has seen him develop character to correct his previous wrongs and learn to improve upon himself. Ex. C. The former colleague described the Individual as a giving and trusting person whose integrity is engrained in his character. Ex. C.

The Individual's Exhibit D is a letter from the Individual's stepfather and Exhibit E is a letter from the Individual's mother. His mother indicated that after she discovered that the Individual's father was engaging in illegal drug use and alcohol use with the Individual and his siblings, the court system assisted her efforts to send the Individual to the recovery center where he completed substance abuse treatment. Ex. E. The Individual's mother and the stepfather both stated they noticed a significant difference in the Individual after he completed treatment and provided examples of his educational and vocational accomplishments. Ex. D; Ex. E. His mother also asserted that the Individual has demonstrated putting his past behind him by terminating harmful friendships, maintaining a full-time job while also taking a full-time college courseload, and independently maintaining his own residence for the past three-and-a-half years. Ex. E.

The Individual also submitted a post-hearing exhibit, Exhibit F, a laboratory report indicating that a urine sample provided by the Individual on November 16, 2022, tested negative for amphetamine, barbiturate, benzodiazepine, cannabinoid, cocaine, methadone, opiate, tricyclic antidepressant, and alcohol.

## **II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

The SSC informed the Individual that information in the possession of the DOE created substantial doubt concerning his eligibility for a security clearance under Guideline H (Drug Involvement and Substance Misuse) of the Adjudicative Guidelines, citing the Psychologist's finding that the Individual met that DSM-5 criteria for SUD, without rehabilitation or reformation, the Individual's admissions of his illegal drug involvement, and his three drug-related arrests. These allegations adequately justify the LSO's invocation of Guideline H. "The illegal use of controlled substances . . . can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 24.

## **III. REGULATORY STANDARDS**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting

or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

#### **IV. HEARING TESTIMONY**

In order to mitigate the security concerns raised by his SUD and illegal drug involvement, the Individual presented the testimony of four witnesses including himself to show that he has discontinued his substance abuse and related drug involvement and that he is now reformed or rehabilitated from his SUD as well as the other disorders that were root causes of his illegal drug involvement.

The Coworker testified that he has known the Individual for approximately one year and is aware of the security concerns involving his drug use. Tr. at 13, 16-17. The Coworker testified that he works directly with the Individual, and he finds the Individual to be a hard worker who is dependable, reliable, and very honest. Tr. at 16. He testified that, in the time he has known the Individual, he has seen no indications that the Individual has ever been under the influence of drugs. Tr. at 16-17. The Coworker also stated that the Individual has expressed his intent to avoid returning to a lifestyle of drug use. Tr. at 18.

The Manager testified that she met the Individual when he was a child through his mother and has known him for 15 years. Tr. at 52. She stated that she was aware of the Individual's drug use and recalled reading a newspaper article about the Individual's efforts to overcome his drug addiction several years ago. Tr. at 55. She stated that the Individual had candidly discussed his drug use and his recovery with her when she was considering whether to hire him. Tr. at 55, 57. The Individual told her about his father and siblings being involved in drugs and how that played a role in his drug use. Tr. at 55-56. The Manager asserted that when the Individual disclosed his past drug problems to her, he did not present it from a victimized perspective, nor did he make excuses about it, or appear deceptive, instead, he "just seemed to own the troubles he'd had in the past and seemed ... eager to try to move beyond all of that." Tr. at 58. She testified that she trusts him, and he has turned out to be a great employee. Tr. at 58. She stated that other workers really enjoy working with him and appreciate his willingness to step in and help whenever needed. Tr. at 58-59. The Manager also stated that the Individual told her that he had no intention of going back to drug use

and was getting a lot of therapy and support. Tr. at 59. She stated that the Individual has not had any issues at work because of drug or alcohol use, and she never saw him appear to be under the influence of any drugs. Tr. at 53-54. The Manager further testified that the Individual seems to be gaining confidence in himself, has been starting to challenge himself, and has learned to communicate more openly with her. Tr. at 56-57.

The Psychiatrist, who has been a practicing since 1982, testified that he is board certified in psychiatry and he has been the medical director of several substance abuse programs, including 18-month residential treatment programs, detoxification programs, and outpatient programs. Tr. at 21-23. He has been treating the Individual for approximately ten years. Tr. at 23, 46. The Individual was a teenager when the Psychiatrist began treating him. Tr. at 23, 46. The Psychiatrist opined that the Individual has several diagnoses: GAD, social anxiety disorder, several substance abuse disorders, and a gambling disorder, each of which are in remission. Tr. at 24. The Psychiatrist treats the Individual with monthly therapy sessions and medication checks. Tr. at 24. He prescribes medication for the Individual's anxiety disorders, and he prescribes Naltrexone which blocks cravings and "reduces the high one gets from any kind of addiction...[s]o it works for, not only substance abuse, but also gambling." Tr. at 25-26, 39, 47.

The Psychiatrist stated that, for many years, the Individual was in a toxic environment where he had access to drugs and substance abusing peers. Tr. at 35. He further testified that most of the Individual's substance abuse occurred during his teenage years, noting that "teenagers do not have as much frontal lobe activity as we have as we get older...so [they] have much less impulse control and they tend to have poor judgment."<sup>4</sup> Tr. at 35. The Psychiatrist testified that the Individual was "in and out of rehab during his teenage years." Tr. at 35. The Psychiatrist talked with him about the things he learned from those programs and opined that the Individual "actually...did pretty well in some of those rehabs." Tr. at 35. The Psychiatrist explained that it required time for the Individual to become sober from his addictions, but that is to be expected, because "it is rare that somebody just gets into treatment and becomes sober, especially at his age and especially with his genetic background and environmental background." Tr. at 28. The Psychiatrist testified that the Individual realized that if he continued his addictions, he would never be able to have the things he wanted in life such as a good relationship, or a house. Tr. at 27-28. The Psychiatrist asserted that it was significant that the Individual spontaneously understood the concept that addictions cause problems because "the difference between a person who eventually responds to treatment and somebody who does not respond, is that ability to see the long-term consequences of their behavior, and not the short term." Tr. at 27-28.

The Psychiatrist testified that he thinks the Individual's anxiety disorder was one of the root causes for his substance abuse and opined that the Individual's anxiety disorder is moderate and is responding to both the medication and to the therapy sessions in which they discuss anxiety-producing situations. Tr. at 41-42. He further opined that the Individual is developing the skills and knowledge to cope with his anxiety and to avoid substance abuse and gambling. Tr. at 42. The Psychiatrist opined that the Individual will ultimately succeed in overcoming his social anxiety

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<sup>4</sup> The Psychiatrist testified that when the Individual first started using drugs as a teenager, he was often living with his father, an alcoholic and heroin addict who introduced the Individual to alcohol. Tr. at 29, 34. The Individual was also encouraged to consume alcohol and use drugs by his older sister and her friends who were drug dealers and drug users. Tr. at 29, 34-35.

disorder: He has developed a more comfortable demeanor, feels more comfortable around people, has developed more self-confidence, particularly as it relates to his job, and has been choosing much healthier people to interact with. Tr. at 41-42.

The Psychiatrist testified that the Individual has replaced his former drug related activities and gambling with more healthy behaviors. For example, when he was unemployed due to COVID, he began attending school. Tr. at 44. He then transitioned into working full-time while simultaneously attending school full-time. Tr. at 44. Subsequently, when he was able to stop going to school full-time, the Individual used that time to engage in hobbies such as making sculptures, as well as repairing and maintaining his cars and home. Tr. at 44. Moreover, he has put in extra effort at work, so he has not had a lot of leisure time. Tr. at 44.

The Psychiatrist stated that he chose to continue to treat the Individual through all those years because of his relative honesty, compared to most addicts that he had treated, and because some of the Individual's drug use resulted from the Individual's self-medication of his anxiety. Tr. at 27, 29-30. Moreover, the Psychiatrist stated that the Individual was able to stop using heroin more easily than most patients he has treated for heroin, and the fact that he made sufficient progress led him to want to continue providing treatment for the Individual. Tr. at 30. The Psychiatrist described the Individual as being "in the top five percent of [his] patients in terms of the ultimate outcome." Tr. at 28.

The Psychiatrist opined that the Individual will not return to drug use and drug related problems with law enforcement, noting that at the time of his arrests, the Individual was an impulsive teenager who failed to think of consequences. Tr. at 31. He asserted that even as a teenager, after a few therapy sessions with the Psychiatrist, the Individual developed the insight to realize that he no longer wanted to engage in drug use and to associate with drug users or dealers. Tr. at 32-33. The Psychiatrist further noted that the Individual has exhibited integrity at his job, highly values the work he is doing, and indicated that the Individual is motivated by his pride in his work and appreciates that he has a well-paying job with a future. Tr. at 33-34.

The Psychiatrist testified that he believes the Individual last used illegal drugs over one year ago when he used DMT. Tr. at 45. The Psychiatrist testified that the Individual's reported his use of DMT to him. Tr. at 45-46. He testified that having worked with the Individual for ten years, he finds that the Individual is a more accurate historian than most people who use drugs and alcohol. Tr. at 46. While the Individual has not always been an accurate historian, he has become more accurate as he has grown older, as evidenced by the fact he disclosed his gambling to the Psychiatrist rather than hiding it from him. Tr. at 46. He asserted his belief that the Individual's last illegal drug use of DMT resulted in significant adverse consequences which ultimately led to the Individual learning and recognizing that if he wants to stay away from using addictive substances, he needs to "stay away completely." Tr. at 38. He noted that the Individual seems to be able to use alcohol socially and occasionally without adverse consequences. Tr. at 39. The Psychiatrist also testified that he recently administered a drug screen to the Individual, which was completely negative. Tr. at 39, 48. He testified that the Individual has told him that he intends to continue abstaining from illegal drug use for various reasons including his job, and because he has seen the disastrous effects from his illegal drug use. Tr. at 36. He opined that the Individual's substance abuse disorders are in remission and specifically opined that the Individual's SUD is in

full, sustained remission. Tr. at 41, 44-45. The Psychiatrist opined that the Individual's prognosis is excellent regarding abstinence from all illegal drugs. Tr. at 38.

The Individual testified that he started working at the DOE worksite in May 2021. Tr. at 84. He stated that at that time, he knew that he would need to obtain an access authorization for his position, and that he would need to avoid using any illegal drugs. Tr. at 84. He testified that the Psychologist's report was accurate, and that he understood why his past behaviors are a security concern. Tr. at 65. The Individual testified that his last illegal drug use occurred in August 2021, when he used DMT. Tr. at 67-68, 78. He stated that he had purchased the DMT in March 2021 for his ex-girlfriend but admitted that he subsequently researched the uses of DMT because he was trying to find out whether the DMT would help decrease his anxiety. Tr. at 67. Ultimately, he decided to use the DMT because he wanted to see what effect it would have on him. Tr. at 67. He testified that he has learned from this mistake and acknowledged that "[he] knew that [he] would have to come clean about it... 'cause if [he] didn't, [he would be] on that slippery slope again." Tr. at 69. He testified that he disclosed his DMT use to the Psychologist to "protect his own integrity as well as to hold [himself] accountable for [his] own actions and to practice honesty." Tr. at 63. He stated that although he knows that he could have disclosed it sooner, he is proud that disclosed his DMT use to the Psychologist because "it reinforced his integrity, self-respect, and it maintains a crucial part in maintaining [his] sobriety." Tr. at 63. He recognized that if he allowed himself to get away with doing something illegal, he might believe that since he was able to successfully get away with illegal drug use, he could do it again in the future just as easily. Tr. at 84. He asserted that he has also learned that he will never again choose to put himself in that position because he recognizes the harm that will result afterward. Tr. at 69.

The Individual testified regarding the lessons he has learned from his prior outpatient treatment programs. He testified that one of the significant lessons that he learned was how to manage triggers and temptations regarding drug use. Tr. at 70. He explained that although he does not miss using meth, whenever he has a trigger or sudden urge to do something that could be harmful to himself, he learned that if he just waits a few seconds or longer, and if he distracts himself during that time, that urge will go away. Tr. at 70. He also testified that his treatment programs taught him to be open with other people because it holds him accountable. Tr. at 71. The Individual also asserted that taking his medication as prescribed and complying with the treatment from his Psychiatrist helps him tremendously in maintaining his sobriety. Tr. at 71. He explained that the Naltrexone that he takes prevents him from experiencing the reward feeling that he used to get when gambling. Tr. at 72. Through the course of his treatment, he has recognized additional benefits that he has experienced from his sobriety such as an increase in his savings. Tr. at 72. He stated that part of his motivation for making changes in his life regarding sobriety was that he recognized that he was exhausted and had reached a point in his life where there was nothing promising left for his future. Tr. at 72.

The Individual testified about the changes he has made to remain abstinent. He asserted that he continues to work towards self-improvement. Tr. at 72-73. He provided examples such as his smoking cessation, his ability to consume alcohol in moderation, and his ability to successfully address his gambling problem. Tr. at 73. He also testified that he has relocated from the communities in which he had engaged in illegal drug use and has completely disassociated from the people that he had used illegal drugs with. Tr. at 73-74. He testified that his father passed away



in 2015 and that that his older sister who had previously provided him with drugs now lives a significant distance from him. Tr. at 74. He stated that he loves her and sends her text messages to see how she is doing, but he only sees her every month or so. Tr. at 74. The Individual asserted that his sister no longer offers him drugs because she cares about him and respects him, and would not try to sabotage him by offering him drugs. Tr. at 75. The Individual acknowledged that, by contrast, his former friends would probably offer him drugs and lead him into harmful situations. Tr. at 75. He asserted that for these reasons, he has intentionally stopped associating with his former friends. Tr. at 75.

The Individual provided examples of activities that have replaced his substance abuse. Tr. at 69, 75-76. He distracts himself from cravings by spending time outdoors, enjoying nature, and meditating. Tr. at 71. He asserted that he has replaced his dependency on drugs with a dependency on activities that will lead to success, including avoiding idle time. Tr. at 69. As such, he spends his leisure time working on his cars, and he is attending school to study engineering. Tr. at 75-76. He also spends time engaging in hobbies such as throwing darts, playing pool, going on hikes with his other sister who is also sober, attending social activities such as barbeques with his friends, and working on his health and fitness. Tr. at 76.

The Individual asserted that he has been abstinent from drug use since August 2021. Tr. at 78. He emphasized his commitment to abstinence in stating that he intends to stay sober “until the day I die” and that he would sooner die than go back to drug use because it was the most depressing and worst place that he has ever been in. Tr. at 77. The Individual asserted that he will be able to maintain this sobriety, unlike in his past, because he now has so much to live for. Tr. at 80. He testified that he recognizes that he now has the potential of a promising future and asserted that he is not going to “mess it up.” Tr. at 63, 80. He testified that he believes that now that he is sober, he feels great, and each day presents a new opportunity for him. Tr. at 86. The Individual also asserted that since he has been sober, his confidence has greatly increased, and his social anxiety has improved. Tr. at 86. He asserted that he now feels comfortable talking with his coworkers and has chosen to disclose his history because he feels proud that he has overcome his past. Tr. at 86.

The Psychologist observed the testimony of the Individual and his witnesses before testifying at the hearing. He testified that he had diagnosed the Individual with GAD, OUD, and CUD in sustained remission, and SUD in early remission. Tr. at 90. At the time he prepared the Report, he found that the Individual’s SUD was not in full remission since the Individual had used DMT approximately seven months prior to the CI. Tr. at 90. He had also been concerned about the Individual’s reasoning leading to his decision to use DMT, since that reasoning stemmed from “an internal lack of cohesion with his sense of self” which resulted in the Individual’s being too easily influenced by other people. Tr. at 90-91. The Psychologist opined that the Psychiatrist “is a very excellent person to work with alcohol and other drug users...[h]e’s got good training and good experience and probably [achieves] good results from that.” Tr. at 91. The Psychologist testified that after listening to the hearing testimony, he was of the impression that the further that the Individual has gotten away from drug use, the more he sees himself as having a future. Tr. at 92. He further opined that the Individual now sees himself as being a different type of person: one who will achieve several types of success including financial success and vocational success. Tr. at 92. The Individual has formed a new self-image as “someone who is an ex-drug and alcohol user and who is proudly achieving his new goals.” Tr. at 92. The Psychologist ultimately opined that he no

longer sees the Individual's SUD as being in "early remission" and now considers his SUD to be in "remission." Tr. at 92. Finally, the Psychologist opined that the Individual "does not have a condition right now that is apt to impair his judgment, reliability, civility, or trustworthiness." Tr. at 94.

## V. ANALYSIS

The Individual has an extensive history of multi-substance abuse, addiction, and related criminal activity. This history has been complicated by, and perhaps results from, his GAD, his youth,<sup>5</sup> and his former peers and several members of his family of origin who encouraged and enabled his substance abuse. The Individual, however, has successfully addressed his substance abuse disorders<sup>6</sup> and his GAD through in-patient and out-patient treatment programs, individual counseling, and medication therapy.<sup>7</sup> This conclusion is supported by the testimony of the Psychiatrist and the Psychologist who have both opined that the Individual's OUD, CUD, and SUD are now in full sustained remission. This conclusion is also supported by the Individual's credible testimony that he had abstained from substance abuse for over fourteen months at the time of the hearing and intends to permanently abstain from further substance abuse. I note that I have been particularly impressed by the Individual's candor and credibility.<sup>8</sup> Moreover, I was impressed by the growth, integrity, and maturity exhibited by the Individual at the hearing. The Individual has formed an identity based upon his newly formed self-image as a recovered substance abuser, who is now proudly achieving his new goals as a responsible and functional adult.

The Adjudicative Guidelines set forth four factors that may mitigate security concerns under Guideline H, at least one of which is present in the instant case. Specifically, Guideline H provides, in relevant part, that conditions that could mitigate a security concern include:

- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

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<sup>5</sup> The Individual's substance abuse and criminal activity mainly occurred during his teenage years and began to abate as he entered his twenties. His hearing testimony, and that of the Psychiatrist, demonstrated that he has matured greatly during the past several years. The Individual's present maturity, as compared to his demonstrated immaturity that he exhibited during his teenage years, is a factor supporting my conclusion that he has successfully mitigated the derogatory information raised under Guideline H. See Adjudicative Guidelines at ¶ 2(d)(7) (an individual's age and maturity at the time of the conduct are among those factors that should be considered in the adjudication of the individual's access authorization).

<sup>6</sup> While the Individual has also been diagnosed with OUD, CUD, and AUD, the Psychologist found that each of these disorders were in sustained remission and that therefore the Individual had been reformed or rehabilitated from these disorders. None of those disorders are cited as derogatory information the SSC, although behaviors resulting from these disorders are cited as derogatory information in the SSC.

<sup>7</sup> Moreover, he has successfully demonstrated, as testified to by the Psychologist, that he has developed a stronger sense of self identity based on the foundations of self-respect, integrity, and accountability which are critical to his long-term sobriety.

<sup>8</sup> The Individual has exhibited remarkable openness and candor about his drug history.

- (1) disassociation from drug-using associates and contacts;
- (2) changing or avoiding the environment where drugs were used; and
- (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;

Adjudicative Guidelines at ¶ 26(b).

In the present case, the Individual has clearly acknowledged his drug involvement and substance misuse. The Individual has also provided evidence of the actions he has taken to overcome this problem, which have included undergoing in-patient and out-patient treatment programs, individual counseling, and medication therapy. Moreover, the Individual has made major life changes to overcome his drug involvement including ending his associations with people who encouraged his drug use and relocating away from those communities in which he was involved in drug activity. Most importantly, he has shown that he had abstained from illegal drug activity for over fourteen months at the time of the hearing, thereby establishing a pattern of abstinence. Finally, the Individual repeatedly testified, under oath, that he intends to permanently abstain from illegal drug use. For these reasons, I find that that Individual has shown that the mitigating condition set forth at ¶ 26(b) is present in the instant case.<sup>9</sup>

I therefore find that the security concerns raised under Guideline H by the Individual's SUD and his drug involvement have been resolved by the evidence in the record showing that he has been reformed and rehabilitated.

## VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline H of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals **Error! Reference source not found.**

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<sup>9</sup> I have not addressed the mitigating factors at ¶ 26(a), (c), and (d) as they do not require consideration, in light of the fact that the Individual has shown mitigation under ¶ 26(b).